On this ground it seems possible to support the result reached in the much criticised case of *Roderigas* v. *Savings Institution*, supra, under the court's view that by providing that the surrogate's inquiry into the fact of death should be conclusive, a jurisdiction over persons adjudged deceased, in addition to that over persons actually deceased, has been conferred. Once the inherent power of the State to grant such jurisdiction is admitted, the adjudication of its highest court as to the extent of jurisdiction granted should be conclusive. *Leffingwell* v. *Warren* (1862) 2 Black 599, 603. The case cannot, therefore, be condemned as an unwarranted extension of the State's power to grant administration upon the property of absentees, though it would seem to reach the limit of statutory interpretation in this connection. *D'Arusement* v. *Jones* (1880) 4 Lea 251.

Effect of Probate of a Will in a Foreign Jurisdiction.— In both England and the United States to-day the probate of a will is purely a matter of statutory law, whereby certain tribunals are given jurisdiction over wills of both personalty and realty. The jurisdiction of these courts is primarily determined by the domicil of the testator at the time of his death. *Enohin* v. *Wylie* (1862) 10 H. L. Cases 1. By statute also, wills probated in one State are admitted to probate in another State upon the presentation of an exemplified copy thereof. This general rule is subject to certain exceptions, one of which has been presented recently in California. A resident of that State, while sojourning in New Hampshire, executed a will in accordance with the laws of both States, and died owning lands situated in both places. The will was probated in New Hampshire and an exemplified copy was presented to the proper court in California asking for a probate there. This was refused, the court holding that it was not entitled to admission as a foreign will, but must be probated originally in the California court. *In re Clark's Estate* (1905) 82 Pac. 760.

Since there was land within New Hampshire belonging to the estate, the court of that State had jurisdiction to probate the will even though the testator was a non-resident both when he made his will and at the time of his death. New Hamp. 1891 P. S. c. 182 § 8. As the probate of a will is generally regarded as a judgment in rem, it was contended by the petitioner that the constitutional guaranty of full faith and credit required the recognition of the decree of the New Hampshire court for the purposes of secondary and ancillary administration in California. Cf. *Willett's Appeal* (1882) 50 Conn. 330. Although there were several prior decisions in the State holding that in the case of indirect or collateral proceedings, the fact that the will of a resident had first been admitted to probate in another State constituted no ground for refusing to receive it as a foreign will, now that the question came up on direct appeal, the California court manifested a determination to part with none of their rights of primary jurisdiction in this respect.

The function of a probate court is to determine whether the

instrument propounded contains the will of a competent testator executed in conformity to law, not what the will itself is nor how it is to be interpreted. Gardner on Wills, § 97. Thus the probate of a will in one State is not regarded in itself as evidence of title to lands situated in another State by the courts of the latter. *Darby* v. *Mayer* (1825) 10 Wheat. 465; *Robertson* v. *Pickrell* (1883) 109 U. S. 608. And though a will may first be proved without the State where the testator was domiciled, *Gordon's Case* (1892) 50 N. J. Eq. 397, yet the State of his domicil will recognize the will only so far as it relates to the property located in the State where the will was probated. *Walton* v. *Hill's Estate* (1894) 66 Vt. 455. It is stated that, viewed as a step in a proceeding in rem where the property only was within the jurisdiction of the court, the adjudication of a grant of letters will have no binding force respecting property outside that state. *Overby* v. *Gordon* (1900) 177 U. S. 214; *Bowen* v. *Johnson* (1858) 5 R. I. 112. Thus it would seem that the questions whether the validity of the actual words of a will executed in conformance with the laws of a certain State should not be determined by the laws of that state or whether the land should not give as conclusive jurisdiction to the court as domicile, are subordinated to the question of sovereignty over the testator's person. The decision of the California court is to be supported alone on this ground since in this particular case on the point of expediency, the argument was all in favor of proving the will in New Hampshire, where it was made and where the witnesses resided. The position of the principal case, however, probably represents the weight of authority in this country. *Bate* v. *Necisa* (1882) 59 Miss. 513; *Stark* v. *Parker* (1876) 56 N. H. 481; *Manuel* v. *Manuel* (1862) 13 Ohio St. 458; cf. *Matter of Cameron* (1900) 47 App. Div. 120, aff'd. 166 N. Y. 610.

GOVERNMENTAL CONTROL OF PARTY NOMINATIONS.—In a recent Kentucky case the plaintiff was a candidate for the Republican nomination as sheriff, and, according to the canvass of the votes made by the party county committee, was defeated. He applied to the court for relief, alleging facts which clearly showed that he had received a majority of the legal votes cast at the primary. A demurrer to the jurisdiction of the court was sustained on the ground that such a contest lies wholly within the province of the governing authority of the party which by statute was given jurisdiction of such contests. *Whitaker* v. *Swanner* (Ky. 1905) 89 S. W. 184.

Prior to 1866 political parties were regarded as purely voluntary associations and their nominating methods were not subjected to the control of either the legislative or the judicial branches of the government. Meyer, Nominating Systems 84; Goodnow, Prin. Admin. Law of U. S. 243. In fact so far had their immunity from governmental control been extended that only twenty years ago the legislature of a State, before passing a statute regulating primaries, deemed it necessary to ask the supreme court the following question: "Is it constitutional to enact any law attempting to regulate the machinery of a political party in making nominations for office?" *In re House*